



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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### **8 VAC 40-31 – Regulations Governing Certification of Certain Institutions to Confer Degrees, Diplomas, and Certificates** **State Council of Higher Education for Virginia** November 19, 2010

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#### **Summary of the Proposed Amendments to Regulation**

The State Council of Higher Education for Virginia (SCHEV) proposes to 1) revise the fee structure for private and out-of-state postsecondary institutions, 2) introduce required actions if a school loses its accreditation, 3) introduce a presumption of compliance if the standard of the accrediting agency is met, and 4) make numerous other changes to clarify existing requirements.

#### **Result of Analysis**

There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

#### **Estimated Economic Impact**

Private and out-of-state postsecondary institutions are required to obtain recertification every year and submit a recertification fee. The proposed regulations will reduce the recertification fee from \$500 to \$250 for schools whose annual gross tuition is \$50,000 or less; maintain the recertification fee at \$1,000 for schools whose annual gross tuition is greater than \$50,000 but less than or equal to \$100,000; increase the recertification fee from \$1,500 to \$2,500 for schools whose annual gross tuition is greater than \$100,000 but less than or equal to \$150,000; maintain the recertification fee at \$2,500 for schools whose annual gross tuition is greater than \$150,000 but less than or equal to \$500,000; increase the recertification fee from \$2,500 to \$4,000 for schools whose annual gross tuition is greater than \$500,000 but less than or equal to \$1 million; increase the recertification fee from \$2,500 to \$5,000 for schools whose annual gross tuition is greater than \$1 million.

The proposed changes to the fee schedule also include elimination of \$100/day (not to exceed \$1,000) late fee, elimination of \$1,000 noncompliance fee for each occurrence; increase of application withdrawal fee from \$300 to \$500 for career technical and to \$1,000 for institutions of higher education; introduction of \$100 fee for duplicate certificates; introduction of \$100 fee for duplicate agent permits; introduction of \$300 application fee for each additional branch; introduction of \$100 application fee for each additional site; and introduction of \$100 application fee for each additional program or modification to an existing program.

The net fiscal effect of the proposed fee changes is estimated to be \$131,500 increase in fees collected. According to SCHEV, these additional fees will help cover administrative costs. Also, the revised fee schedule is expected to more appropriately align the amount of fees generated with the staff time spent on different types of administrative activities. On the other hand, the postsecondary institutions may see a decrease or increase in their fees depending on the type of administrative action needed from SCHEV.

Another proposed change will introduce a list of required actions if a school loses its accreditation. Under the current rules, exemption from these regulations depends on a school having a valid accreditation. However, the current regulations are silent on what happens if a school loses its accreditation. The proposed regulations will add a list of actions that must be executed following the loss of accreditation which will ensure that the school will be subject to these regulations upon loss of accreditation. This proposed change is expected to reduce the ambiguity in cases where a school loses its accreditation and therefore enhance protections afforded to students.

The proposed changes will also introduce a presumption of compliance if the standard of the accrediting agency is met. Some of the standards such as refund policies established in these regulations may be different than the standards established in other states. SCHEV believes that standards varying from state to state increase the burden on schools operating in multiple states. To simplify compliance with the regulations, the proposed changes will presume that a school is in compliance with these regulations as long as the standard of the accrediting agency is met. It is worth noting that this change will also make the compliance with these regulations to rely on the rules and policies of entities other than SCHEV. Since the rules and policies of accrediting entities can change without SCHEV's approval and/or without going through the regulatory

review process, the potential effects of this proposed change are subject to significant uncertainty.

Finally, SCHEV proposes numerous other changes to clarify existing requirements after conducting a periodic review. None of these changes are expected to create a significant economic effect other than improving the clarity of the regulations.

## **Businesses and Entities Affected**

There are 343 private and out-of-state postsecondary institutions certified to operate in Virginia. Approximately 58,600 students enroll in these institutions.

## **Localities Particularly Affected**

The proposed regulations apply throughout the Commonwealth.

## **Projected Impact on Employment**

The proposed regulations are not expected to have a direct impact on employment.

## **Effects on the Use and Value of Private Property**

The proposed regulations may have a small negative or positive impact on the asset value of affected postsecondary institutions as some of the fees are increasing while some other are decreasing affecting profit streams.

## **Small Businesses: Costs and Other Effects**

Of the 343 private and out-of-state postsecondary institutions, 194 are estimated to be small businesses based on gross revenues. The costs and other effects on the small businesses are the same as the ones discussed above.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

There is no known alternative method that accomplishes the same goals.

## **Real Estate Development Costs**

The proposed regulations are not expected to have an impact on real estate development costs.

## Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 107 (09). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.